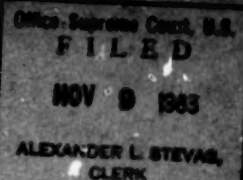


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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

NO. 83-547

OHIO-SEALY MATTRESS
MANUFACTURING COMPANY, et al.,

Petitioners,

v.

SEALY, INCORPORATED,

Respondent.

MOTION TO DEFER AND CONSOLIDATE

Petitioners Ohio-Sealy Mattress Manufacturing Company, et. al., by their attorneys, hereby move this Court for an order (1) deferring consideration of this petition until the Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit in a related case, Ohio-Sealy Mattress Manufacturing Company, et. al. v. Sealy, Incorporated, No. _____,* has been briefed, and (2) consolidating the two petitions for consideration together. In support thereof, petitioners state:

1. The petition in Case No. 83-547 was filed on

* The caption of the case below is: Ohio-Sealy Mattress Manufacturing Company, et al. v. Louis C. Duncan, et al., No. 82-2681.

September 30, 1983. The parties are petitioners Ohio-Sealy Mattress Manufacturing Company and its subsidiaries and respondent Sealy, Inc. and its subsidiaries. Respondent's brief was filed October 28, 1983. Petitioners Reply Brief is being filed contemporaneously with this motion. Petitioners' and respondent's briefs have been distributed and the petition is scheduled for conference on November 23, 1983.

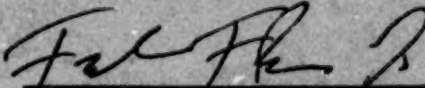
2. The Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit, in the case of Ohio-Sealy Mattress Manufacturing Company, et. al. v. Sealy, Incorporated, No. _____, is being filed contemporaneously with this motion. The parties are petitioners Ohio-Sealy Mattress Manufacturing Company and its subsidiaries and respondent Sealy, Inc. and its subsidiaries.

3. Both petitions address questions concerning Sections 3 and 4 of the Federal Arbitration Act, 9 U.S.C. § 1, et seq. and both appeals were argued together before the same Seventh Circuit panel.

4. The interests of the Court and the parties would be served by consolidating these petitions for consideration. Each case involves the procedural history of the litigation, the Sealy License Agreement, and Sections 3 and 4 of the Federal Arbitration Act.

WHEREFORE, Petitioners pray that this Court enter an order deferring consideration in Case No. 83-547 until the second petition has been briefed and ordering that the two petitions be consolidated for consideration.

Respectfully submitted,



Frederic P. Brace, Jr., P.C.
Patrick J. O'Donnell

OF COUNSEL:

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Suite 1858
Chicago, Illinois 60604
(312) 347-4400
Attorneys for Petitioners

PROOF OF SERVICE

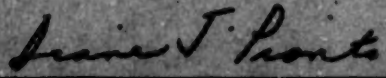
Frederic F. Brace, Jr., P.C. an attorney for
Petitioners and a member of the Bar of this Court certifies that
copies of the Motion to Defer and Consolidate addressed to
Howard R. Koven, Friedman & Koven, 208 South LaSalle Street,
Chicago, Illinois, Jerold S. Solovy, Jenner & Block, One IBM
Plaza, Chicago, Illinois, and Sean O'Shea, Latham & Watkins,
Hedlund, Hunter & Lynch, 7820 Sears Tower, Chicago, Illinois,
were served, by messenger delivery, on the 8th day of November,
1983, prior to 5:00 p.m.

Frederic F. Brace, Jr., P.C.


Attorney for Petitioners

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(312) 347-4400

Subscribed and Sworn
To Before Me This 8th
Day of November, 1983


NOTARY PUBLIC